NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRYAN K. LOCKRIDGE, Petitioner — Appellee, v. A. K. SCRIBNER, Warden, Respondent — Appellant.	No. 04-56059 D.C. No. CV-03-00783-LGB MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
Lourdes G. Baird, District Judge, Presiding

Argued and Submitted November 15, 2005
Pasadena, California

Before: BRIGHT[**], B. FLETCHER, and SILVERMAN, Circuit Judges.

Appellee Bryan Lockridge was granted habeas relief by the district court pursuant to its determination that the state court's refusal to instruct the jury on

[*] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

[**] The Honorable Myron H. Bright, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

self-defense violated Lockridge's constitutional rights. The state appeals. We affirm.

I.

Lockridge was convicted by a jury of the attempted murder of a police officer. At trial, Lockridge testified that he was fired upon while he had his hands raised in the air, trying to surrender to two police officers. Lockridge also presented two witnesses who testified that they saw Lockridge with his hands in the air before shots were fired. The trial judge declined to instruct the jury as to the law of self-defense, however.

The jury was absorbed by the question of whether Lockridge or the officers fired first. During their deliberations, they sent a note to the judge asking, "If we believe Bryan Lockridge did not shoot first can we still find him guilty of attempted murder???" At this point, Lockridge again requested an instruction on self-defense, and the trial judge again declined to provide it.

II.

A district court's decision to grant or deny a 28 U.S.C. § 2254 habeas petition is reviewed de novo. *Leavitt v. Arave*, 371 F.3d 663, 668 (9th Cir. 2004); *Beardslee v. Woodford*, 358 F.3d 560, 568 (9th Cir. 2004). If it is necessary to review the district court's findings of fact, they are reviewed for clear error. *Riley*

v. Payne, 352 F.3d 1313, 1317 (9th Cir. 2003); *Alcaca v. Woodford*, 334 F.3d 862, 868 (9th Cir. 2003).

Lockridge's petition was filed after April 24, 1996, so the Antiterrorism and Effective Death Penalty Act (AEDPA) applies. *Lindh v. Murphy*, 521 U.S. 320, 327 (1997). Under AEDPA, a federal court is permitted to grant habeas relief only if the state court adjudication "1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or 2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d).

The district court was correct in concluding that the trial judge's refusal to instruct Lockridge's jury on the law of self-defense was an unreasonable application of clearly-established Supreme Court precedent. It has long been established that, "[w]hether rooted directly in the Due Process Clause of the Fourteenth Amendment, or in the Compulsory Process or Confrontation clauses of the Sixth Amendment, the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense.'" *Crane v. Kentucky*, 476 U.S. 683, 690 (1986) (internal citations omitted), quoting *California v. Trombetta*, 467 U.S. 479, 485 (1984); *see also Holmes v. South Carolina*, 126 S. Ct. 1727,

1731 (2006) (affirming this principle). It is equally well-established that "a defendant is entitled to an instruction as to any recognized defense for which there exists evidence sufficient for a reasonable jury to find in his favor." *Mathews v. United States*, 485 U.S. 58, 63 (1988); *see also Stevenson v. United States*, 162 U.S. 313 (1896).

The evidence presented at trial was sufficient for a reasonable jury to conclude that Lockridge had fired in self-defense. In refusing to instruct the jury on the law of self-defense, the trial judge unreasonably denied Lockridge a meaningful opportunity to present a complete defense.

III.

The judgment of the district court is **AFFIRMED**.